

**NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE**

FILED

SEP 25 2024

NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

In the Matter of

TRADERS EDGE INC.
(NFA ID #284329),

EDWARD FRANCIS CARR JR.
(NFA ID #30296),

WILLIAM MICHAEL CHIECO
(NFA ID #276412),

and

EUGENE ANTHONY RATTI
(NFA ID #262344),

Respondents.

NFA Case No. 24-BCC-011

COMPLAINT

Having reviewed the investigative report submitted by the Compliance Department of National Futures Association (NFA) and having found reason to believe that NFA Requirements are being, have been, or are about to be violated and that the matter should be adjudicated, NFA's Business Conduct Committee (BCC) issues this Complaint against Traders Edge Inc. (Traders Edge), Edward Francis Carr Jr. (Carr), William Michael Chieco (Chieco) and Eugene Anthony Ratti (Ratti).

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, Traders Edge has been an introducing broker (IB) Member of NFA. As such, Traders Edge was and is required to

comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.

2. At all times relevant to this Complaint, Carr was an associated person (AP) and principal of Traders Edge, and an NFA Associate. As such, Carr was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Further, Traders Edge is liable for violations of NFA Requirements committed by Carr during the course of his activities on behalf of Traders Edge.
3. At all times relevant to this Complaint, Chieco was an AP and principal of Traders Edge, and an NFA Associate. As such, Chieco was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Further, Traders Edge is liable for violations of NFA Requirements committed by Chieco during the course of his activities on behalf of Traders Edge.
4. Ratti was approved as NFA Associate and registered as an AP of Traders Edge from March 10, 1998 until May 8, 2023. As such, Ratti was required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Further, Traders Edge is liable for violations of NFA Requirements committed by Ratti during the course of his activities on behalf of Traders Edge.

BACKGROUND

5. Traders Edge has been an IB Member of NFA since February 1998 and is located in Madison, New Jersey.

6. In addition to being an AP and principal of Traders Edge, Carr is an owner and president of Traders Edge and the individual primarily responsible for overseeing the firm's day-to-day operations.
7. Carr and/or his firms have been named in five prior NFA actions, which contained a wide range of allegations, including, but not limited to, misleading promotional material, high pressure and misleading sales solicitations, and failure to supervise.
8. NFA commenced an exam of Traders Edge in April 2023 primarily due to the firm's disciplinary history. At the time of the exam, Traders Edge primarily promoted an option selling strategy to existing and potential customers and exercised discretionary authority over the trading in a majority of its active customer accounts.
9. As alleged in more detail below, NFA's exam once again revealed serious deficiencies related to the firm's promotional materials, solicitations, and supervision of the firm's operations and employees as well as registration.

APPLICABLE RULES

10. NFA Compliance Rule 2-29(b)(1) provides that no IB Member shall use any promotional material that is likely to deceive the public. A related Interpretive Notice entitled, "Deceptive Advertising," discusses examples of promotional material practices that are misleading and deceptive. One practice involves using cherry picked, isolated trades to support profit claims, while failing to disclose that those profitable trades are not representative of the overall performance of the Member's other customers.

11. NFA Compliance Rule 2-29(b)(3) provides that no IB Member shall use any promotional material that mentions the possibility of profit unless accompanied by an equally prominent discussion of the risk of loss.
12. NFA Compliance Rule 2-29(b)(5) provides that no IB Member shall use any promotional material that includes any specific numerical or statistical information about the past performance of any actual accounts unless that performance is presented net of all commissions, fees and expenses.
13. NFA Compliance Rule 2-2(a) provides that no Member or Associate shall cheat, defraud or deceive, or attempt to cheat, defraud or deceive, any commodity futures customers.
14. NFA Compliance Rule 2-4 requires Members and Associates to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their commodity futures business. A related Interpretive Notice entitled, "Commissions, Fees and Other Charges," states that NFA Compliance Rule 2-4 requires IB Members to make available to its customers, prior to the commencement of trading, information concerning the costs associated with futures transactions. The Interpretive Notice also makes clear that any fee arrangement which is intended to or is likely to deceive customers is a violation of NFA Requirements (e.g., NFA Compliance Rules 2-2 and 2-29(a)).
15. NFA Compliance Rule 2-29(a)(1) provides that no Member or Associate shall make any communication with the public which operates as a fraud or deceit.
16. NFA Compliance Rule 2-2(i) provides that no Member shall act in any capacity requiring registration under the Commodity Exchange Act (CEA) unless the Member is either registered in that capacity or exempt from registration.

17. NFA Compliance Rule 2-9(a) provides that each Member shall diligently supervise its employees and agents in the conduct of their commodity interest activities for or on behalf of the Member. The Rule also requires each Associate who has supervisory duties to diligently exercise such duties in the conduct of that Associate's commodity interest activities on behalf of the Member.

COUNT I

VIOLATIONS OF NFA COMPLIANCE RULES 2-29(b)(1), 2-29(b)(3) and 2-29(b)(5): MISLEADING AND UNBALANCED PROMOTIONAL MATERIAL.

18. The foregoing paragraphs are realleged as if fully stated herein.
19. As a part of the 2023 exam, NFA reviewed the Traders Edge website. As alleged further in Count II, the trading results posted on the firm's website were an important component of the firm's sales solicitations. However, NFA found that the trading results displayed on the website were misleading and deceptive.
20. For example, the trading results displayed on the firm's website as of February 5, 2023 indicated that 22 of 26 (85%) of closed trades in 2022 were winners, which generated a gain of approximately \$8,600 before commissions and fees.
21. However, NFA's analysis of IRS 1099 Forms and commission and fee data indicated that the majority of the firm's discretionary accounts lost money in 2022. Specifically, 29 of 42 (69%) discretionary accounts experienced a trading loss prior to commissions and fees. Additionally, the loss before commissions and fees for all discretionary accounts totaled approximately \$199,000 in 2022.
22. These trading results that Traders Edge "hand-picked" to display on its website gave the impression that the vast majority of trades that Traders Edge executed

for its customers made money, and thus those who do business with Traders Edge may expect similar results.

23. These trading results were misleading and deceptive because the majority of the firm's discretionary accounts actually lost money in 2022. Such misrepresentation is significant as the probability of profit is a major factor—and usually the determining factor—a customer considers when making an investment decision.
24. In addition, the trading results displayed on the firm's website were not presented net of commissions and fees. The trading results listed the details of the trade along with the gain or loss. Next to the gain or loss figure was an asterisk. However, to determine the meaning of the asterisk, one needed to scroll to the top of the page where it was disclosed in small print that the "trades do not include commissions and fees."
25. Not only was the size and proximity of the disclaimer inadequate, but it failed to identify the amount of the commissions and fees. Further, such disclaimer, even if equally prominent and inclusive of the commission and fee amounts, does not satisfy the express requirement in NFA Compliance Rule 2-29(b)(5) that the trading results be presented net of fees.
26. Moreover, the omission caused the trading results to be misleading and deceptive. To illustrate, NFA's analysis of IRS 1099 Forms and commission and fee data revealed that in 2021 the majority of the firm's discretionary accounts experienced a trading gain prior to commissions and fees. However, after commissions and fees, the majority of the firm's discretionary accounts

experienced a trading loss. Accordingly, commissions and fees had a significant impact on profitability.

27. Specifically, 31 of 43 (72%) discretionary accounts experienced a trading gain prior to commissions and fees in 2021. However, after factoring in commissions and fees, 26 of 43 (60%) discretionary accounts experienced a trading loss. Moreover, the net gain before commissions and fees for all discretionary accounts totaled approximately \$752,000 in 2021. However, the net loss after commissions and fees for all discretionary accounts totaled approximately \$630,000.
28. In addition to issues with the trading results displayed on the firm's website, NFA found that the website included discussions about profit that were not accompanied by an equally prominent discussion of the risk of loss.
29. A generic disclaimer, which stated that there is risk of loss in futures and options trading, appeared at the bottom of each webpage. However, the disclaimer was not equally prominent in content or location (*i.e.*, a visitor needed to scroll to the bottom of the page to see the disclaimer) as compared to the discussions of profit potential that appeared throughout the website.
30. As illustrated by a sample trade from the website, copied below, the "Open and Closed Posted Trades" page of the firm's website displayed a number of open trades placed for customers by Traders Edge and listed the potential profit that could be made on each trade in large, bold font. However, the page did not include an equally prominent discussion about the risk of loss.

DATE: March 6, 2023

TRADE:

Sell 3 September gold 2300 calls for 7.80/Buy 1
September gold 2200 call for 13.30

\$1010*

GROSS CREDIT FOR TRADE: \$1010*

SPAN MARGIN REQUIREMENT: \$3009

EXPIRATION DATE: AUGUST 28, 2023

PRICE OF GOLD: 1910.50

RATIONALE:

As inflation lessens and interest rates stabilize gold should remain
in a narrow channel. Gold has never traded higher than \$2081

31. In addition, the "Options Education" page of the firm's website discussed four options selling strategies and included an example trade for each strategy. Each example discussed profit potential but only one example discussed the risk of loss. To illustrate, the uncovered short option example discussed the potential to make \$700 but failed to discuss the fact that an uncovered short option trade has unlimited loss potential.
32. Further, "The Biden Affect" page of the firm's website discussed how to profit during uncertain times but did not include an equally prominent discussion about the risk of loss. In addition, the page downplayed the risk involved in options trading by stating that there is "profit potential with limited risk."
33. Similarly, "The Russians Are Coming" page of the firm's website described the economic uncertainty in the financial markets due to the Russian invasion of Ukraine and suggested that a 5% move in various underlying contracts could generate returns of 250%, 350% and 400%. Not only did the page fail to include an equally prominent discussion about the risk of loss, but it also downplayed the

risk involved in options trading by stating that "[a]ll of these trades have limited predetermined risk and can be done in a retirement account."

34. Finally, the "Why Traders Edge" and "Trading Resources" pages of the firm's website discussed the benefits of SPAN margin but failed to discuss the risks associated with trading on margin, including the fact that losses may exceed the capital in the account thus requiring the posting of additional margin.
35. By reason of the foregoing acts and omissions, Traders Edge is charged with violating NFA Compliance Rules 2-29(b)(1), 2-29(b)(3) and 2-29(b)(5).

COUNT II

VIOLATIONS OF NFA COMPLIANCE RULES 2-2(a), 2-4 AND 2-29(a)(1): MISLEADING AND DECEPTIVE SALES SOLICITATIONS.

36. The foregoing paragraphs are realleged as if fully stated herein.
37. Traders Edge actively solicits potential customers on a daily basis. In these solicitations, firm APs primarily pitch an option selling strategy wherein the customer selling the option gets paid an upfront fee (*i.e.*, premium) and hopes that the option expires worthless so that the customer can keep the premium.
38. Since Traders Edge records calls on firm phone lines, NFA obtained a sample of calls for review. NFA reviewed 20 calls involving the firm's three most active APs and identified a number of misleading and deceptive solicitations. Additionally, a Compliance staff member assigned to NFA's Enhanced Surveillance Program (ESP) posed as a potential customer (ESP Agent) and received a similar misleading and deceptive solicitation.

Failure to Adequately Disclose Fees

39. Traders Edge charges its customers a \$4.80 transaction fee per contract on the front end of the trade on top of commissions, which are typically \$25 per round turn. In addition, customers pay exchange fees and NFA fees, which typically total less than \$2 per half turn.
40. According to Carr, the transaction fee makes up roughly 25% to 40% of the firm's total revenue. NFA's analysis confirmed Carr's representation and revealed that Traders Edge collected over \$1.6 million in transaction fees from the beginning of 2021 to the end of 2023. The highest amount paid by a single account during this three-year period totaled nearly \$385,000.
41. Carr represented to NFA that the transaction fee is disclosed verbally to customers prior to trading and is reflected on customers' daily account statements.
42. However, the firm was unable to produce any documentation evidencing that the transaction fee was accurately disclosed to customers prior to trading.
43. NFA confirmed that the total transaction fees associated with each trade are separately listed on customers' daily account statements; however, the statements do not describe the fee and are not sent to customers until after trading has commenced.
44. Further, NFA's review of phone recordings identified no mention of a transaction fee. In some instances, APs appeared to lump the amount of the transaction fee in with exchange fees, which are generally not negotiable on a customer-by-customer basis, and did not describe the transaction fee in detail. As a result, at

least two Traders Edge APs misled prospective customers into believing that the fees were owed entirely to the exchange.

45. For example, Chieco told NFA's ESP Agent that he charges commissions of \$25 per round turn for a \$25,000 account. Chieco went on to say, "there's just a round turn commission and there's about \$7 in exchange fees and things like that, other than that, that's it."
46. Similarly, Ratti told a potential customer, "the way I make my money is from a commission, you pay a commission and that's it." When asked about the amount of the commission, Ratti informed the customer that the commission is about \$25 per round turn. Ratti went on to say, "there's exchange fees too, roughly about \$5 to \$7 . . . and that's it."
47. In other instances, APs failed to disclose the nature and amount of the transaction fee entirely. For example, when asked how Traders Edge makes money, Chieco told one potential customer, "it's strictly round turn commissions, that's it . . . [commissions] are around \$25 round turn . . . there's a few dollars in exchange fees, but that's it."
48. Since the phone recordings made no mention of the transaction fee, NFA conducted customer interviews to determine if customers were aware of all of the fees that Traders Edge charged them. NFA spoke to four customers whose accounts were traded by Chieco and Ratti and a fifth customer that is an NFA Member commodity pool operator (CPO) and commodity trading advisor (CTA).

49. Four of the five customers, including the CPO/CTA customer, stated that they were unaware of the transaction fee. One of the five customers stated that he was aware of the transaction fee but was unable to describe the fee.
50. By failing to adequately disclose the transaction fee prior to the commencement of trading, Traders Edge's conduct fell short of the high standards of commercial honor and just and equitable principles of trade required of NFA Members.
51. Chieco's and Ratti's solicitations were misleading and deceptive in that they attempted to mask the transaction fee as exchange fees or failed to disclose the nature and amount of the transaction fee altogether, thereby giving the impression that the only fees Traders Edge and its APs received were commissions.
52. By reason of the foregoing acts and omissions, Chieco, Ratti and Traders Edge are charged with violating NFA Compliance Rules 2-2(a) and 2-29(a)(1). Additionally, Traders Edge is charged with violating NFA Compliance Rule 2-4.

Downplaying Risk and Assuring Steady Profits

53. Not only did Chieco and Ratti fail to adequately disclose the transaction fee, but they also gave potential customers the impression that their option trading strategy would lead to steady profits and involved little risk.
54. For example, Chieco informed two potential customers that there is a "90%" chance that the options he trades will expire worthless, which implied the customers would keep the premium they collected. Chieco also suggested to these two potential customers and NFA's ESP Agent that he could make 2%,

3% or 4% per month (which NFA noted equates to 24% to 48% per year) without taking much risk.

55. Similarly, Ratti informed a potential customer that his strategy produces a "passive income." Ratti informed another potential customer that his strategy could be considered "more conservative" than buying stocks or mutual funds. However, a short naked option has unlimited loss potential, as opposed to buying a stock or interest in a mutual fund where risk is limited to the purchased amount.
56. Not only were Chieco's and Ratti's statements to these customers unaccompanied by any risk disclosure, but the statements also downplayed the risk involved in options trading and contained unrealistic assurances of steady profits.
57. By reason of the foregoing acts and omissions, Chieco, Ratti and Traders Edge are charged with violating NFA Compliance Rules 2-2(a) and 2-29(a)(1).

Untrue and/or Misleading Statements

58. As alleged above in Count I, the trades posted on the firm's website were an important component of the firm's sales solicitations. Chieco regularly referred potential customers to the firm's website to view the firm's trading results and suggested that they "do some business" if they like what they saw.
59. Chieco also informed potential customers that the trades on the firm's website were "live" trades that were "not cherry picked." However, these statements were untrue as the firm's website included only a sample of trades, which Carr indicated were "hand-picked" based upon product type.

60. Further, Chieco attempted to legitimize the trading results on the firm's website by informing a potential customer that the trades had been "audited" by NFA. However, as alleged above in Count I, NFA finds the trading results on the firm's website to be misleading and deceptive.
61. Further, though the firm has undergone prior NFA exams, NFA does not review the firm's website during every NFA exam and, if the website is reviewed, NFA may review only a sample of the trades on the website. Moreover, the trading results on the firm's website are constantly updated. Therefore, any suggestion that the trading results have been "audited" by NFA is false and misleading.
62. By reason of the foregoing acts and omissions, Chieco and Traders Edge are charged with violating NFA Compliance Rules 2-2(a) and 2-29(a)(1).

COUNT III

VIOLATION OF NFA COMPLIANCE RULE 2-2(i): FAILURE TO REGISTER AS A CTA

63. The foregoing paragraphs are realleged as if fully stated herein.
64. NFA Compliance Rules prohibit a Member from acting in a capacity requiring registration under the CEA unless the Member is registered in that capacity or exempt from registration. NFA's 2023 exam found that Traders Edge acted as a CTA without being registered in that capacity.
65. Section 1a(12) of the CEA generally defines the term CTA as any person who for compensation or profit, engages in the business of advising others, either directly or indirectly, as to the value of or the advisability of trading in commodity interests. Section 4m(1) of the CEA requires the registration of those persons

that fall within the definition of the term CEA, unless an exclusion from the term CTA or an exemption from registration as a CTA is applicable.

66. CFTC Regulation 4.14 provides an exemption from registration as a CTA for certain specified persons. In particular, CFTC Regulation 4.14(a)(6) exempts from registration as a CTA any person that is registered as an IB and whose trading advice is rendered "solely in connection with" its business as an IB. The CFTC has stated that, absent special circumstances, the exemption from CTA registration under CFTC Regulation 4.14(a)(6) is not available to an IB who holds a power of attorney to exercise discretionary authority over the trading in a majority of its customers' accounts.
67. Traders Edge engaged in the business of advising others as to the advisability of trading in commodity interests and received compensation for its services.
68. Moreover, the firm held powers of attorney to exercise discretionary authority over the trading in a majority of its active customer accounts. For purposes of NFA's analysis, a customer is considered "active" if it traded at any point during the calendar year at issue.
69. As of December 31, 2023, the firm held powers of attorney to exercise discretionary authority over trading in 32 of 57 (56%) active customer accounts. Similarly, as of December 31, 2022, the firm held powers of attorney to exercise discretionary authority over the trading in 42 of 73 (58%) active customer accounts.
70. Traders Edge and its APs also distributed some of the trade recommendations used to trade the firm's discretionary accounts to current and prospective

customers who signed up for the firm's text messaging service. The firm then made its trade recommendations available to the general public on the firm's website.

71. Accordingly, the exemption from CTA registration under CFTC Regulation 4.14(a)(6) is not available to Traders Edge.
72. Traders Edge has argued that the firm has not acted in the capacity of a CTA because the firm does not hold powers of attorney to exercise discretionary authority over the trading in customer accounts, rather its APs do.
73. However, Traders Edge's argument fails for two reasons. First, many of the limited power of attorney forms that the firm's customers signed identify Traders Edge as attorney-in-fact. Second, even though some limited power of attorney forms identify the individual APs as attorney-in-fact, the APs provided these advisory services to customers on behalf of Traders Edge as agents of the firm and Traders Edge collected all commissions and fees earned on these accounts.
74. By reason of the foregoing acts and omissions, Traders Edge is charged with violating NFA Compliance Rule 2-2(i).

COUNT IV

VIOLATIONS OF NFA COMPLIANCE RULE 2-9(a): FAILURE TO SUPERVISE

75. The foregoing paragraphs are realleged as if fully stated herein.
76. Carr is an owner, president, principal and AP of Traders Edge. He is also the individual primarily responsible for overseeing the firm's day-to-day operations, including reviews of trading, solicitations and promotional materials.

77. However, as alleged above, there were significant deficiencies with the firm's sales solicitations and promotional materials as well as a failure to adhere to high standards of commercial honor and just and equitable principles of trade. Each such deficiency demonstrates significant supervisory shortcomings by Carr and Traders Edge.
78. Carr also demonstrated his supervisory shortcomings in other ways.
79. Katherine Alexander (Alexander) is the compliance officer of Traders Edge. As compliance officer, Alexander's primary responsibilities included preparing compliance procedures and assisting Carr with reviews of the firm's trading, solicitations and promotional materials. For example, Alexander performed the initial monthly review of the firm's sales solicitations by reviewing one phone call per business day and creating a log of all phone calls that she reviewed. Carr then reviewed two of the calls reviewed by Alexander.
80. Carr assigned these duties to Alexander even though she is unqualified to perform them.
81. Alexander has no prior registration history and worked for years as the firm's office manager prior to her becoming compliance officer in January 2022, when the firm's prior compliance officer retired.
82. Alexander's failure to identify serious deficiencies with the firm's sales solicitations demonstrates her lack of compliance knowledge necessary to perform the duties that she has been tasked with. For example, NFA obtained the firm's call review logs for the period January 2023 through May 2023 and

found that Carr and Alexander identified no compliance issues with the phone calls reviewed during this period.

83. However, NFA assessed a sample of the calls reviewed by both Carr and Alexander and identified some of the same deficiencies discussed in Count II, including unbalanced discussions that contained unrealistic assurances of steady profits and omitted information on the risk of loss.
84. Carr's failure to identify these deficiencies demonstrates his failure to diligently supervise the firm's operations and employees. Additionally, Carr's assignment of duties to Alexander that she is unqualified to perform further demonstrates his failure to diligently supervise the firm's operations.
85. By reason of the foregoing acts and omissions, Traders Edge and Carr are charged with violating NFA Compliance Rule 2-9(a).

PROCEDURAL REQUIREMENTS

ANSWER

You must file a written Answer to the Complaint with NFA within thirty (30) days of the date of the Complaint. The Answer shall respond to each allegation in the Complaint by admitting, denying, or averring that you lack sufficient knowledge or information to admit or deny the allegation. An averment of insufficient knowledge or information may only be made after a diligent effort has been made to ascertain the relevant facts and shall be deemed to be a denial of the pertinent allegation.

The place for filing an Answer shall be:

National Futures Association
320 South Canal Street
Suite 2400
Chicago, Illinois 60606
Attn: Legal Department-Docketing

E-Mail: Docketing@nfa.futures.org

Failure to file an Answer as provided above shall be deemed an admission of the facts and legal conclusions contained in the Complaint. Failure to respond to any allegation shall be deemed an admission of that allegation. Failure to file an Answer as provided above shall be deemed a waiver of hearing.

POTENTIAL PENALTIES, DISQUALIFICATION AND INELIGIBILITY

At the conclusion of the proceedings conducted in connection with the issuance of this Complaint, one or more of the following penalties may be imposed:

- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with an NFA Member;
- (c) censure or reprimand;
- (d) a monetary fine not to exceed \$500,000 for each violation found; and
- (e) order to cease and desist or any other fitting penalty or remedial action not inconsistent with these penalties.

The allegations in this Complaint may constitute a statutory disqualification from registration under Section 8a(3)(M) of the Commodity Exchange Act. The Respondent in this matter who applies for registration in any new capacity, including as

an AP with a new sponsor, may, after opportunity for hearing, be denied registration based on the pendency of this proceeding.

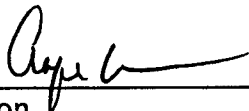
Pursuant to CFTC Regulation 1.63, penalties imposed in connection with this Complaint may temporarily or permanently render a Respondent who is an individual ineligible to serve on disciplinary committees, arbitration panels, and governing boards of a self-regulatory organization, as that term is defined in CFTC Regulation 1.63.

**NATIONAL FUTURES ASSOCIATION
BUSINESS CONDUCT COMMITTEE**

Dated:

9/25/2024

By:


Chairperson